

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN ARLENE BECKER**, on April 4, 2005 at
3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Arlene Becker, Chairman (D)
Rep. Tom Facey, Vice Chairman (D)
Rep. Don Roberts, Vice Chairman (R)
Rep. Emelie Eaton (D)
Rep. Gordon R. Hendrick (R)
Rep. Teresa K. Henry (D)
Rep. William J. Jones (R)
Rep. Dave McAlpin (D)
Rep. Tom McGillvray (R)
Rep. Mike Milburn (R)
Rep. Art Noonan (D)
Rep. Ron Stoker (R)
Rep. Pat Wagman (R)
Rep. Bill Warden (R)
Rep. Jonathan Windy Boy (D)

Members Excused: Rep. Mary Caferro (D)

Members Absent: None.

Staff Present: Susan Fox, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:	SJ 13, 3/13/2005
	SJ 26, 3/31/2005
	SJ 27, 3/31/2005
	SB 287, 3/31/2005
	SB 358, 3/31/2005

Executive Action: SJ 13 Be Concurred In
SJ 26 Be Concurred In
SJ 27 Be Concurred In
SB 86 Be Concurred In
SB 358 Be Concurred In
SB 440 Be Concurred In
SB 287 Be Concurred In As Amended

HEARING ON SB 358

Sponsor: SEN. BOB KEENAN, SD 5, BIGFORK

Opening Statement by Sponsor:

SEN. BOB KEENAN opened the hearing on **SB 358**. He gave a history of the bill which goes back to 1997. SB 69 would have authorized the Department of Public Health and Human Services (DPHHS) to develop a long-term care insurance partnership if certain changes had happened in Federal law. Those changes did not happen. This bill would allow DPHHS to seek authority through a waiver to implement the long-term care insurance partnership. As part of the Medicaid Redesign Committee, they talked about this approach and recommended this bill be brought forward. It encourages people to buy long-term care insurance.

Proponents' Testimony:

Erin McGowan-Fincham, State Auditor's Office, said that the Auditor's Office was in support of the bill. She handed out a brochure from the State Auditor. This partnership would encourage more Montanans to purchase long-term care insurance. The pricing is approximately \$170 per year for a 45 year old for a minimum benefit policy. It would be almost double for a higher benefit policy. For a person over 60 years, the price is closer to \$5,000 per year.

EXHIBIT(huh71a01)

{Tape: 1; Side: A; Approx. Time Counter: 0 - 6.1}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. TOM MCGILLVRAY inquired if this insurance would be a dollar for dollar offset and up to how much. **SEN. KEENAN** thought it was up to \$200,000.

REP. MCGILLVRAY asked, as an example, if he had a \$200,000 long-term care insurance policy, would he be allowed to keep \$200,000. Then when that \$200,000 was used up, he wondered if he would be able to qualify for Medicaid. **SEN. KEENAN** said that it is dollar-for-dollar on the assets as the insurance pays for care.

SEN. KEENAN explained what the dollar-for-dollar model was. Medicaid disregards the amount of an individual's resources in determining medical assistance eligibility by one dollar for each dollar paid out to the individual under the individual's long-term care insurance policy. It is based on the assets, not the premium payments.

Closing by Sponsor:

The Sponsor closed.

REP. MCGILLVRAY will carry the bill.

{Tape: 1; Side: A; Approx. Time Counter: 6.1 - 8.4}

HEARING ON SJ 13

Sponsor: **SEN. JON TESTER, SD 15, BIG SANDY**

Opening Statement by Sponsor:

SEN. JON TESTER opened the hearing on **SJ 13**. He pointed to Lines 28-29. The Resolution urges that Taiwan be permitted appropriate and meaningful participation in the World Health Organization. Taiwan is a sister state of Montana, established in 1985. Montana actively trades with Taiwan. The Resolution was requested by the Taiwanese delegation who visited here about two months ago.

Proponents' Testimony:

John Bohlinger, Lieutenant Governor, Montana, spoke in support of the Resolution. The people of Taiwan, who have been denied a place at the table where world health issues are discussed, should be permitted to participate in the World Health Organization (WHO). He urged the Committee to support SJ 13.
{Tape: 1; Side: A; Approx. Time Counter: 8.4 - 11.5}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

CHAIRMAN BECKER asked why Taiwan had not been allowed to be a member of WHO. **SEN. TESTER** believed that it is because of their tenuous relationship with mainland China.

REP. ROBERTS reported that Taiwan had no problem with SARS. They have a top-rate world health organization. China was having trouble with the outbreak of their poultry viruses.

Closing by Sponsor:

The Sponsor closed.

REP. FACEY will carry the bill.

{Tape: 1; Side: A; Approx. Time Counter: 11.5 - 13.6}

HEARING ON SJ 27

Sponsor: SEN. DAN HARRINGTON, SD 38, BUTTE

Opening Statement by Sponsor:

SEN. DAN HARRINGTON opened the hearing on **SJ 27**. The State of Montana needs to urge the Montana Congressional delegation to oppose Federal asbestos legislation that would pay compensation to victims of the asbestos-related disease unless that legislation insures the residents of Libby, Montana, who suffer from the asbestos-related disease, to be included within the terms of the legislation and receive the compensation they need and deserve.

{Tape: 1; Side: A; Approx. Time Counter: 13.6 - 19.1}

Proponents' Testimony:

John Bohlinger, Lieutenant Governor, Montana, stood in full support of SJ 27. He submitted his written statement.

EXHIBIT ([huh71a02](#))

Roger Sullivan, Attorney, Kalispell, explained that his firm represents approximately 500 individuals from Libby who have been injured, through no fault of their own, by exposure to the tremolite asbestos originating at W.R. Grace's mine near Libby. He submitted written testimony.

EXHIBIT ([huh71a03](#))

{Tape: 1; Side: A; Approx. Time Counter: 19.1 - 25.4}

Don Judge, Teamsters Local 190, spoke in support of SJ 27. He said this is a good first step to make sure that W.R. Grace doesn't get off the hook.

Al Smith, Montana Trial Lawyers Association, stood in support of SJ 27. W.R. Grace started out by lying to their workers and hiding the dangers of asbestos; when workers were injured and tried to collect Workers Compensation, Grace said that they were not entitled to that; when workers went to the courts, Grace fought them in the courts; Grace then filed bankruptcy to avoid responsibility for what they had done. Some in Congress are considering an asbestos relief act which would protect Grace even further from being held accountable and responsible for the harm that they caused. Their legislation would leave victims in Libby without a good remedy.

{Tape: 1; Side: A; Approx. Time Counter: 25.4 - 27.4}

Jeff Barber, Montana Environmental Information Center, was supportive of SJ 27.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. ROBERTS had heard that about 90% of the people exposed to chrysolite had not been affected and that it is more of a fear type of thing. He asked if that was correct. **Mr. Sullivan** said that one of the problems, as a matter of public policy, was how to deal with people who have been exposed but are currently unimpaired. During the course of other proceedings like bankruptcy proceedings, etc., compensation had been paid, although at relatively low levels to thousands of unimpaired. This siphons resources away from those who are truly sick such as the people in Libby. It is a dilemma. Legislation must be done right so that true victims of tremolite asbestos are helped.

REP. ROBERTS asked medical questions which were answered by Mr. Sullivan.

{Tape: 1; Side: A; Approx. Time Counter: 27.4 - 32}

REP. HENDRICK wondered how many employees left Libby who might have been affected by tremolite asbestos. **Mr. Sullivan** has a list called the Alpha List which states that about 2,100 employees left over the course of about a 40-year period. Unfortunately, they unwittingly exposed their families. One important aspect is support for a center for asbestos-related disease in Libby, Montana which is the front line in providing

medical services to the people in western Montana who are suffering from this disease and even those who aren't because they need monitoring every two years.

REP. HENDRICK asked what type of education had been done for those exposed in unknown ways. **Mr. Sullivan** did not want to cause undue alarm. The more exposure one has, the more likely one is to develop a scarring disease. On the other hand, cancers can develop with lower exposures; though there are not so many of this kind. Fair notice must be given to Montanans to educate them as to what to do and what not to do.

REP. MCALPIN inquired if Libby people were explicitly waived from compensation under Senator Specter's bill. **Mr. Sullivan** replied that there are several provisions in the legislation including a waiver of the strict occupational disease exposure that generally applies. Through the efforts of Senator Burns and Senator Baucus, helpful provisions have been placed in the legislation and have been accepted by Senator Hatch and/or Senator Specter. However, critical pieces are still missing in that legislation.
{Tape: 1; Side: B; Approx. Time Counter: 0 - 4}

REP. STOKER wondered if Mr. Sullivan had data on the number of homes in Montana that have this type of asbestos. **Mr. Sullivan** said they didn't have that data, but felt it would have been helpful because it had been used extensively throughout Montana and other northwestern states. In Libby, there are several thousand structures that are being cleaned up. EPA is doing that at the rate of several hundred per year.
{Tape: 1; Side: B; Approx. Time Counter: 4 - 5.6}

REP. WAGMAN asked how the disease affects the body. **Mr. Sullivan** said that research has not caught up with the disease. He spoke about the disease and what has been done to help people. It is a deadly disease but it can be managed.
{Tape: 1; Side: B; Approx. Time Counter: 5.6 - 8.4}

Closing by Sponsor:

SEN. HARRINGTON closed by saying that it is time to move forward to help these people, but it is important to hold those accountable who are responsible for this tragic situation.

REP. NOONAN will carry the bill.

HEARING ON SJ 26

Sponsor: **SEN. AUBYN CURTISS, SD 1, FORTINE**

Opening Statement by Sponsor:

SEN. AUBYN CURTISS opened the hearing on **SJ 26**. She stated that SJ 26 is far more important than SJ 27. It does everything that SJ 27 requests but SJ 26 reaffirms the Resolution that was passed in 2003 which requested a research and treatment center in Libby, Montana. If this materializes and Montana's Congressional delegation is successful in getting the funds for this, it would have far-reaching results all across the nation because research may come up with an early detection plan. It would be important for Libby because a data system has already been established and there is a walking laboratory of victims in Libby. She encouraged support for this Resolution.

{Tape: 1; Side: B; Approx. Time Counter: 8.4 - 13.4}

Proponents' Testimony:

John Bohlinger, Lieutenant Governor, Montana, stood in strong support of SJ 26. He had also been a strong supporter of the Resolution passed in 2003. He understood the need for a center to be placed in Libby.

Al Smith, Montana Trials Lawyers Association, supported SJ 26. He did take issue with Lines 9-10 as he felt it was not needed in the resolution. When a person discovers he has the disease, which is a very slow-growing disease, they need to bring a lawsuit within the statute of limitations. He felt that is the reason so many lawsuits have been filed.

Don Judge, Teamsters Local 190, offered that they, too, were in support of SJ 26. He was very supportive of a center being built in Libby. Through the periods of the 50s, 60s and 70s, 80% of the world's vermiculite was produced in Libby. Vermiculite was shipped to over 750 sites in North America alone and dozens of sites in Europe. Somewhere between 15 and 35 million homes in the U.S. alone have been insulated with vermiculite that was produced in Libby. This is a huge problem. Congress needs to fund the healthcare study that is being requested.

{Tape: 1; Side: B; Approx. Time Counter: 13.4 - 19.1}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

CHAIRMAN BECKER remembered the Resolution that was passed in 2003. She asked if Congress had considered establishing a center somewhere else besides Libby. **SEN. CURTISS** said that she did not

know if they had considered another place. Progress had been made toward obtaining research assistance at the University of Montana in Missoula. Libby feels quite left out because they had made the request early on and Libby had the basis for research. There is evidence that this disease may affect the entire immune system and Lupus may be related to this disease also.

REP. ROBERTS asked Mr. Sullivan which resolution was the best one. **Mr. Sullivan** responded that the resolutions address two important components of the problem. Both would be worthy of passage. SJ 27 focuses on the context: the situation in terms of the national asbestos scene and the various policy considerations that enter into that equation. SJ 26 exhorts Congress to do the right thing in terms of getting funding for a research center for the study and treatment of illnesses related to tremolite asbestos. The legal system has worked well for the people of Libby. In 2001, the Legislature created a special asbestos court which was unique in the country.

{Tape: 1; Side: B; Approx. Time Counter: 19.1 - 24.2}

REP. NOONAN asked about the phrase, "growing civil litigation industry." **SEN. CURTISS** replied that it is a growing industry. There has been real disappointment in the fact that many of the awards have been made to people who have been litigants but who are not really ill and haven't really shown much manifestation of the disease. There are over 600,000, maybe 700,000 now, asbestos cases plugging the court system.

REP. FACEY offered a friendly amendment for Lines 9-10. **SEN. CURTISS** felt that it might be appropriate.

REP. STOKER asked for the end uses of the tremolite product versus the manufacturing and end uses of the chrysolite product. **Mr. Judge** offered that the most famous use of chrysolite is in brake shoes, brake linings and pads. It is also used as insulation on pipes. As for the vermiculite produced in Libby, they mined the ore, shipped it out to places called popping plants. It would be heated to tremendously high degrees; the fibers would pop and it was used for attic insulation and in Scott's Turf Builder. Just a couple of years ago, they were still finding Scott's Turf Builder bags in Seattle that contained vermiculite from Libby.

Closing by Sponsor:

SEN. CURTISS urged support for both resolutions.

REP. HEINERT will carry the bill.

{Tape: 1; Side: B; Approx. Time Counter: 24.2 - 30}

HEARING ON SB 287**Sponsor:** SEN. TRUDI SCHMIDT, SD 11, GREAT FALLS**Opening Statement by Sponsor:**

SEN. TRUDI SCHMIDT opened the hearing on **SB 287**. The bill addresses the pseudoephedrine problem. The first two sections address the restriction regarding the access of pseudoephedrine products. The last sections deal with the meth watch program. An amendment put the meth watch program under the Department of Justice. Therefore, there is no fiscal note at this time. The important part of the bill is to restrict the access of pseudoephedrine so that it can only be purchased from a pharmacist. People will not need a prescription, but it will only be available behind a pharmacy counter. This has proven to be very effective in cutting down the methamphetamine clandestine labs operation by approximately 70-80%. States are realizing that this is the only way to stop these "mom and pop" labs.
{Tape: 2; Side: A; Approx. Time Counter: 0 - 3.5}

Proponents' Testimony:

Mike McGrath, Attorney General, Montana, spoke in support of SB 287. He felt that this is the most significant thing that can be done to stop clandestine meth labs. Pseudoephedrine is the one necessary ingredient to make meth. If that product is restricted, it will stop most of the "mom and pop" meth labs. He spoke about the problems that meth creates. It fills the prisons, creates problems in the health care community, social service agencies, schools, and it creates tremendous family and community disruption.

Mr. McGrath stressed two more points. Some people are concerned that the product will be behind the counter. Claritin D is a composite product and would be covered under this bill. One tablet of Claritin D contains 120 mg. of pseudo and 5 grams of an antihistamine. He resisted taking out the composite products. He encouraged the Committee to keep these products available only at a pharmacy. There are exceptions in the bill for people who live in rural communities. Gel caps and liquid pseudoephedrine is available and these types cannot be used to make meth. Access for people who need this product will not be hindered.

The bill was amended in the Senate and addressed the meth-watch program. Section 10 has a provision that says if there is no funding, the program would be voided. That is not necessary any longer because funding has not been requested. He had an

amendment that the sponsor agreed with. It would strike Section 10 in its entirety.

{Tape: 2; Side: A; Approx. Time Counter: 3.5 - 12.2}

Randy Kuiper, Licensed Pharmacist, Great Falls, and Montana Pharmacy Association, supported the bill saying that it won't do everything but it will restrict access to the drug which is vital in the production of meth. He felt that pharmacies were the best avenue in order to restrict the access to this drug. They have processes in place for drug accountability. Pharmacies have great hours and pharmacists are accessible.

{Tape: 2; Side: A; Approx. Time Counter: 12.2 - 14.2}

Eric Stern, Governor's Office, strongly urged a do pass on SB 287. This is one of the most important pieces of legislation in this session.

Randy Gray, Mayor, Great Falls, had seen first hand how this problem mushroomed. Firemen as well as policemen are sent out on calls because of the explosive nature of the clandestine meth labs. He supported the bill strongly and felt that it was the way to go in cutting these meth labs. He encouraged more education for all people.

{Tape: 2; Side: A; Approx. Time Counter: 14.2 - 18.6}

Chris Christaens, Montana Farmers' Union and Montana Landlords Association, stated that both of these organizations firmly believe this bill needs to be passed. The residuals of meth labs affect the livelihood of anyone who happens to own rental property. As law enforcement becomes more pro-active in the urban communities, these labs are moved out into the country. These labs operate in fields and abandoned farms; the residuals are dumped into sewers, abandoned cisterns and waterways. If this continues, there will be serious environmental problems. He urged a do pass.

{Tape: 2; Side: A; Approx. Time Counter: 18.6 - 20}

Don Hargrove, Montana Addiction Services Providers, commented that SB 287 is a very important bill. He urged the Committee to pass the bill.

Stephen Spanogle, Narcotics Agent, Montana Department of Justice, and Montana Narcotics Officers Association, passed out a brochure. He said that pseudoephedrine and methamphetamine are almost identical except for one oxygen molecule in pseudoephedrine. A meth lab removes that molecule. He mentioned the success of the Oklahoma law and the effect it had on neighboring states like Texas, Missouri, and Arkansas. They all had significant increases of meth labs after Oklahoma passed

their law. North Dakota, Wyoming and Idaho are looking to pass the same kind of law. He gave statistics of success stories in other states.

EXHIBIT (huh71a04)

Craig Campbell, Executive Director, Montana Narcotics

Association, showed the Committee a box of Top Care which contained pseudoephedrine hydrochloride. It sells for \$6.87. There are 20 caplets with 120 mg. in each. When converted, there are 2 grams of pseudoephedrine and 1.2 grams of methamphetamine which sell for about \$140 to \$160 on the street. He gave other examples. He urged a do pass.

Pat Melby, Montana Medical Association and Rimrock Foundation in Billings, said that both organizations support SB 287.

{Tape: 2; Side: A; Approx. Time Counter: 20 - 25.5}

Mike Mahoney, Warden, Montana State Prison, felt that he had never seen a substance that had the impact that methamphetamine has had. It has created great problems for both local and state law enforcement. He encouraged the Committee for a do pass.

Linda Stoll, Montana Local Health Officers Group, strongly supported SB 287.

Jim Smith, Montana Sheriffs and Peace Officers Association, stated that they had been in support of this bill all along. He concurred with all the previous testimonies.

Jim Campbell, Montana Association of Chiefs of Police, shared an incident that had happened in Helena.

Bill Slaughter, Director, Department of Corrections, concurred with the testimony and urged a do pass.

{Tape: 2; Side: A; Approx. Time Counter: 25.5 - 28.6}

Opponents' Testimony: None

Informational Testimony:

Jean Branscum, Secretary of State Office, said that in the previous administration under Governor Judy Martz, she had worked on the meth problem and they had formed a partnership with the Attorney General's Office to form a drug task force. It was recommended in 2002 that a study be done to see whether regulating pseudoephedrine would be an effective way to stop the problems of meth and meth labs in Montana. She gave more history and ended by saying that she was pleased to have had the pleasure

of working with SEN. SCHMIDT and SEN. LIABLE in drafting the bill.

{Tape: 2; Side: A; Approx. Time Counter: 28.6 - 32}

Questions from Committee Members and Responses:

REP. STOKER inquired how many licensed pharmacies are in Montana.

SEN. SCHMIDT said there are approximately 214 pharmacies.

REP. STOKER asked how many retail outlets would not be allowed to handle pseudoephedrine products. **SEN. SCHMIDT** said she did not have that information but she had spoken to the two lobbyists who represent that group and they were supportive of the bill.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 3.7}

REP. STOKER asked if this bill would pinch off the retail end of the meth business. **Mr. Spanogle** replied that if **REP. STOKER** was referring to bulk shipments of pseudoephedrine, they had some problems with the stuff being shipped from Canada to Mexico where the super labs were kicking out hundreds of tons of meth. They were able to shut down those shippings. Now the ephedrine is coming from Southeast Asia and Asia.

REP. WARDEN did not think the \$100 fine was very stiff and thought a stiffer one would be better. **Mr. McGrath** felt that the fine was sufficient. He did not think there would ever be an enforcement action. These fines would be against people doing business in the State of Montana and those folks are not interested in violating Montana law. If there are non-legitimate business people trying to sell precursors, they can be prosecuted through other statutes. He continued to explain the law for prosecution.

{Tape: 2; Side: B; Approx. Time Counter: 3.7 - 7.2}

REP. HENDRICK inquired if there were any tracking systems set up to follow who buys, how much and where. **Mr. McGrath** said they did not have a tracking system. The bill will put up roadblocks but there are always those who try to get around the system.

{Tape: 2; Side: B; Approx. Time Counter: 7.2 - 11.2}

REP. EATON asked if the meth problem was being handled state by state. **Mr. McGrath** said that was correct. Efforts are being made at the Federal level. There is a bill to put pseudoephedrine into Schedule V category.

REP. FACEY asked **REP. PARKER** to comment on SB 287. **REP. PARKER** was in full support of the bill and offered to carry it on the floor.

{Tape: 2; Side: B; Approx. Time Counter: 11.2 - 15.6}

REP. ROBERTS asked if theft of these products has been a big problem. **Mr. Kuiper** said that theft has been a problem.

REP. ROBERTS wondered if **Mr. Kuiper**, as a pharmacist, could detect a problem while working. **Mr. Kuiper** responded that pharmacists usually have a feeling if someone is not legitimate. He said that if he thought a person was not legitimate, he had the ability to say no.

{Tape: 2; Side: B; Approx. Time Counter: 15.6 - 19.7}

REP. MCGILLVRAY thought it was odd that the pharmacies did not put these products behind the counter knowing the problems of meth and the problems of theft. **Mr. Kuiper** did offer that many major retailers do have theft reduction systems in place. He felt that many retailers mark the product up because of the demand.

{Tape: 2; Side: B; Approx. Time Counter: 19.7 - 21.8}

CHAIRMAN BECKER asked how many Sudafed tablets would be needed to make enough meth for one person's use. **Mr. Spanogle** said that nine grams of pseudoephedrine would make nine grams of meth with the best reduction methods. Gel caps would not begin to be profitable. Nine grams might last a person two to three days.

REP. STOKER wondered how much the retail price would be for a gram. **Mr. Spanogle** replied that would bring \$100 per gram.

REP. HENDRICK felt that Congress could stop manufacturers from making the tablets and require only the gel form. **Mr. Spanogle** agreed and said he would make the pharmaceutical companies come up with another form. Interestingly, the U.S. made the pharmaceutical companies pack the tablets in blister packs thinking meth lab people would not take the time to pop one tablet out at a time. That didn't happen. (The pills used to come in a bottle and the meth lab people would just cut off the bottom of the bottle and dump all the tablets out.) These people get hyper and need something to do. He said that he would be interested in knowing how much of the pseudoephedrine products are sold; but that information does not get out because they are making money off the domestic manufacturing of meth.

{Tape: 2; Side: B; Approx. Time Counter: 21.8 - 27.1}

REP. STOKER and **Mr. Spanogle** discussed some ways that law enforcement could track the sale of pseudoephedrine and how the laws already in place could be helpful in stopping meth traffic.
{Tape: 2; Side: B; Approx. Time Counter: 26.4 - 28.6}

Closing by Sponsor:

The Sponsor closed and shared some responses that she had received in support of the bill.

REP. PARKER will carry the bill.

{Tape: 2; Side: B; Approx. Time Counter: 28.6 - 32}

EXECUTIVE ACTION ON SB 287

Motion: REP. MCALPIN moved that SB 287 BE CONCURRED IN.

Motion: REP. STOKER moved that SB 287 BE AMENDED.
[EXHIBIT](#)(huh71a05)

Discussion:

REP. STOKER explained the amendment. He proposed that retailers as well as pharmacies be able to sell pseudoephedrine either in a locked case or behind the counter.

REP. FACEY resisted the amendment. People can get the gel if necessary.

REP. WARDEN also resisted the amendment.

Vote: Motion failed 0-16 by voice vote. REP. CAFERRO and REP. MILBURN voted by proxy.

Motion/Vote: REP. FACEY moved that SB 287 BE AMENDED TO STRIKE SECTION 10. Motion carried unanimously 16-0. REP. CAFERRO and REP. MILBURN voted by proxy.
[EXHIBIT](#)(huh71a06)

Motion: REP. ROBERTS moved that SB 287 BE CONCURRED IN AS AMENDED.

Discussion:

There was discussion on how the bill will affect people and the Committee all felt it was a good bill. There was mention of the

fact that in the next legislative session, a bill could be brought forward to make these products a prescription drug.

Vote: Motion carried unanimously by voice vote 16-0. REP. CAFERRO and REP. MILBURN voted by proxy.

REP. PARKER will carry the bill.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 11.5}

EXECUTIVE ACTION ON SJ 13

Motion/Vote: REP. WARDEN moved that SJ 13 BE CONCURRED IN. Motion carried 15-1 by voice vote with REP. WAGMAN voting no. REP. CAFERRO and REP. MILBURN voted by proxy.

REP. FACEY will carry the bill.

EXECUTIVE ACTION ON SJ 26

Motion: REP. FACEY moved that SJ 26 BE CONCURRED IN.

Discussion:

REP. MCALPIN wanted to remove Lines 9 and 10: "...effects of asbestos exposure has spawned a massive and still growing civil litigation industry; and...."

REP. WAGMAN said that he had spoken with REP. NOONAN. He related how he had been approached to file a lawsuit when he had worked for B&N Railroad. Asbestos had been used in the railroad industry for years. This industry would send a mailer to him and want him to come meet with medical examiners in motel rooms, etc. They were looking for clients. There is an industry out there and they do try to recruit people to file a lawsuit.

REP. HENDRICK concurred with REP. WAGMAN. He had been in a very similar situation. There is an industry of civil litigation.

Vote: Motion carried 14-2 by voice vote with REP. MCALPIN and REP. MCGILLVRAY voting no. REP. CAFERRO and REP. MILBURN voted by proxy.

REP. HEINERT will carry the bill.

{Tape: 3; Side: A; Approx. Time Counter: 11.5 - 17}

EXECUTIVE ACTION ON SJ 27

Motion/Vote: REP. FACEY moved that SJ 27 BE CONCURRED IN. Motion carried unanimously by voice vote 16-0. REP. CAFERRO and REP. MILBURN voted by proxy.

REP. NOONAN will carry the bill.

EXECUTIVE ACTION ON SB 440

Motion: REP. ROBERTS moved that SB 440 BE CONCURRED IN.

Discussion:

REP. ROBERTS explained the bill. Specialty hospitals are becoming a popular entity in large cities. Training hospitals are left picking up everything else. Unfortunately, the hospitals that are losing the specialty cases have to pay for the indigents who go to the emergency rooms, etc.

Vote: Motion carried unanimously by voice vote 16-0. REP. CAFERRO and REP. MILBURN voted by proxy.

REP. FACEY will carry the bill.

{Tape: 3; Side: A; Approx. Time Counter: 17 - 21.6}

EXECUTIVE ACTION ON SB 358

Motion/Vote: REP. FACEY moved that SB 358 BE CONCURRED IN. Motion carried unanimously by voice vote 16-0. REP. CAFERRO and REP. MILBURN voted by proxy.

REP. MCGILLVRAY will carry the bill.

EXECUTIVE ACTION ON SB 86

Motion: REP. WINDY BOY moved that SB 86 BE CONCURRED IN.

Discussion:

CHAIRMAN BECKER explained that this bill conforms to Federal law. The important issue is the need of an expert witness when an Indian child is taken from their home and must be placed into a foster home. The expert witness would have expertise in Indian culture.

REP. MCGILLVRAY asked for a brief overview because he had not been at the hearing. **REP. WINDY BOY** pointed to Page 2, Line 28-29. These lines explain the basics of the bill.

REP. STOKER said that there was a question between the terminology used by the state and language used in the Indian Child Welfare Act. This applies to Indian children off the reservation.

Ms. Fox explained that in Montana statute, "child abuse and neglect" is used. In Federal statute, "serious emotional, physical damage to the child" is used. It is clarification so that both statutes have the same meaning.

REP. HENDRICK asked **REP. WINDY BOY** if he had any reservations that an Indian child might have to remain in an abusive situation until an expert witness could be found. **REP. WINDY BOY** said, "No."

{Tape: 3; Side: A; Approx. Time Counter: 21.6 - 32}

REP. NOONAN offered that the Committee had heard from some people who were opposed to the bill. Mr. Metropolis was one opponent. There were two things going on. SB 86 would conform Montana statute with the Indian Child Welfare Act. The Committee does not have a choice on this issue. The people who were opposed to the bill were really opposed to the Indian Child Welfare Act itself in total.

Vote: Motion carried 14-2 by voice vote with **REP. JONES** and **REP. MCGILLVRAY** voting no. **REP. CAFERRO** and **REP. MILBURN** voted by proxy.

REP. NOONAN will carry the bill.

{Tape: 3; Side: B; Approx. Time Counter: 0 - 3.2}

ADJOURNMENT

Adjournment: 6:30 P.M.

REP. ARLENE BECKER, Chairman

MARY GAY WELLS, Secretary

AB/mw

Additional Exhibits:

EXHIBIT ([huh71aad0.TIF](#))